

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

<b>In re: BRIDGESTONE/FIRESTONE, INC.,</b>	<b>) Master File No. IP 00-9373-C-B/S</b>
<b>TIRES PRODUCTS LIABILITY</b>	<b>) MDL NO. 1373</b>
<b>LITIGATION</b>	<b>)</b>

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**THIS DOCUMENT RELATES TO:**

**The following Venezuelan Cases in which  
the plaintiffs are represented by the law firm of  
Colson Hicks Eidson:**

**IP 01-5177-C-B/S; IP 01-5193-C-B/S;**  
**IP 01-5231-C-B/S; IP 01-5232-C-B/S;**  
**IP 01-5333-C-B/S; IP 01-5334-C-B/S**  
**IP 01-5335-C-B/S; IP 01-5342-C-B/S**  
**IP 01-5343-C-B/S; IP 01-5344-C-B/S**  
**IP 01-5345-C-B/S; IP 01-5346-C-B/S**  
**IP 01-5347-C-B/S; IP 01-5348-C-B/S**  
**IP 01-5349-C-B/S; IP 01-5350-C-B/S**  
**IP 01-5370-C-B/S; IP 01-5371-C-B/S**  
**IP 01-5385-C-B/S; IP 01-5386-C-B/S**  
**IP 01-5387-C-B/S; IP 01-5388-C-B/S**  
**IP 01-5389-C-B/S; IP 01-5395-C-B/S**  
**IP 01-5396-C-B/S; IP 01-5397-C-B/S**  
**IP 01-5398-C-B/S; IP 01-5413-C-B/S**  
**IP 01-5414-C-B/S; IP 01-5466-C-B/S**  
**IP 01-5475-C-B/S**

**ENTRY ON FORD'S MOTION TO COMPEL**

These cases are before the magistrate judge on the motion to compel filed by defendant Ford Motor Company and joined in by defendant Bridgestone/Firestone, Inc. The motion is fully briefed, and the magistrate judge, being duly advised, rules as follows.

This motion arises out of problems that have arisen during the course of discovery in two specific cases in which the plaintiffs are citizens of Venezuela and are represented in this MDL by the

law firm of Colson Hicks Eidson. In the first case, that of plaintiff Ana Josefina Camacho Argueyo, IP 01-5348-C-B/S, the plaintiff admitted in her deposition that the “cocubinato” certificate she produced to the defendants was a forgery that she obtained because she was afraid she could not recover damages as a surviving spouse without the certificate. In the second case, that of Maritza Josefina Velazquez Graterol (“Ms. Velazquez”), IP 01-5350-C-B/S, the defendants assert that the plaintiff

has produced a bogus certification of income by a non-existent public accountant, a bogus “certification” of Plaintiff’s employment income and benefits by the president of a company known as Inversiones “Jaisol,” C.A. (which did not exist during four of the years for which income was certified), and a “certification” of a questionable Explorer lease transaction which, again, includes time periods before Inversiones “Jaisol,” C.A. existed.

Plaintiffs’ counsel vigorously disputes the defendants’ accusation that the apparent discrepancies between documents produced by Ms. Velazquez and other information, including her deposition testimony, constitute fraud, and offer explanations for the contradictions raised by the defendants.

The defendants are not at this time seeking sanctions for the plaintiffs’ actions in these two cases, and therefore the magistrate judge need not determine whether Ms. Velazquez’s discovery responses are fraudulent, or even inaccurate. Accordingly, the magistrate judge expresses no opinion on the matter. What the defendants seek in the instant motion is additional discovery which they argue is necessary to determine “the source and extent of the fraud” in these two cases.<sup>1</sup> The plaintiffs have agreed to the following specific items of relief sought by the defendants: (1) the deposition of Ramon Lopez Lopez in Miami; (2) the deposition of Jairo Enrique Hernandez Villalobos in Miami; and (3) the

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<sup>1</sup>The magistrate judge notes that the defendants do not accuse the Colson Hicks Eidson firm of perpetrating the alleged fraud.

deposition in Miami of the local Venezuelan counsel who assisted Ms. Velazquez in preparing her discovery responses.<sup>2</sup> The magistrate judge assumes that plaintiffs also have no objection to the defendants deposing Marian Carolina Hernandez Miquilena, the daughter of Mr. Hernandez Villalobos, regarding her signing of her father's name on a document; however, in light of the fact that this deposition will be very short, the magistrate judge determines that it may be taken via videoconferencing if the plaintiffs prefer. The plaintiffs also do not dispute that they are obligated to produce all available financial, bank, credit, tax and employment records that are relevant to their claims for economic damages. To the extent that the defendants believe they still have not obtained such records in any given case, they shall so notify plaintiffs' counsel. Plaintiffs' counsel shall then promptly report to the defendants regarding the status of those records.

The plaintiffs do not agree to the remaining relief sought by the defendants: authorization from the plaintiffs in these two cases and in all of the cases listed in the caption above to permit the defendants independently to obtain employment, tax, and other financial records for any plaintiff or decedent for whom a claim of lost income is made. The magistrate judge is grossly offended by the defendants' implication that because two Venezuelan plaintiffs have (allegedly) committed fraud during the discovery process, the discovery responses of all Venezuelan plaintiffs—or at least those represented by the same law firm—are suspect. See Ford's Motion at 2 ("This corruption of the discovery process not only requires the immediate attention of this Court, but also brings into question the veracity of the

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<sup>2</sup>The plaintiffs state that they are willing to produce the Venezuelan attorney for deposition "in the event this Court deems it necessary." The magistrate judge believes it is appropriate for this deposition to take place.

discovery responses and damages claims of *the remaining Venezuelan Plaintiffs.*”). The magistrate judge firmly dismisses the preposterous idea that the actions of one or two plaintiffs in any way reflects or predicts the actions of other plaintiffs simply because they happen to live in the same country.

That said, the magistrate judge will address the legitimate issue of whether the defendants are entitled to obtain independently certain employment and financial records to verify the plaintiffs’ lost income claims. In a personal injury case involving a resident of the United States in which a claim of lost income was made, the Federal Rules of Civil Procedure would permit the defendants to seek third party discovery from the plaintiff’s (or decedent’s) employers, accountants, and banks in order to verify the financial and employment information provided by the plaintiffs during the course of discovery. Where necessary, the magistrate judge would require such a plaintiff to execute an authorization for the release of such information, in the same way that a medical authorization form would be required from a plaintiff claiming physical injuries. In those cases in which the plaintiffs reside in foreign countries, third party discovery without executed authorization forms is impractical or impossible. Therefore, to give the defendants the same access to independently-obtained documents in those cases that they have in the U.S. cases, the magistrate judge will require the plaintiffs to execute appropriate authorizations. The magistrate judge wishes to emphasize that this ruling has in no way been influenced by the fraud allegations made in the instant motion.

The question remains of the appropriate scope of the authorizations. The scope of the authorizations sought by the defendants is a moving target throughout the briefing of the instant motion. “Employment and tax records from Plaintiffs’ employers and relevant tax entities” is what is sought on page 3 of the motion, and it is those two types of authorizations that are specifically discussed in Section

III of the motion. In the “conclusion” section of the motion, however, Ford adds without explanation a request for authorizations for “banking and other financial information.” Then, on page 2 of its reply brief, Ford states that it is seeking “authorization for Ford independently to obtain employment, tax, income, and bank records from Plaintiffs’ employers and relevant tax entities.”<sup>3</sup> Two pages later, Ford complains that the plaintiffs have refused to sign authorizations “for Ford independently to obtain employment, income, banking, *credit*, and tax records from Plaintiffs’ employers, *banks*, and relevant tax entities.” Finally, in the Conclusion section of its reply brief, Ford makes its broadest request of all, stating that “Plaintiffs must provide authorizations for the release of tax records, employment records, income records, bank and savings records, credit records, and other financial records.”

The magistrate judge believes that the parties will be able to agree upon the appropriate authorizations, using the following as guidance:

1. Authorizations are only required from those plaintiffs<sup>4</sup> who are making a claim for lost wages or other lost income;
2. The defendants are entitled to obtain records kept in the ordinary course of business by a plaintiff’s employer(s) regarding the plaintiff’s earnings for the five years preceding the subject accident to the present;<sup>5</sup>
3. The defendants are entitled to obtain a plaintiff’s income tax returns and other tax

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<sup>3</sup>One might query how employers and tax entities would have access to bank records.

<sup>4</sup>The term plaintiff in this context also refers to a decedent whose lost income a plaintiff is claiming as damages.

<sup>5</sup>Obviously, if a plaintiff is or was self-employed, he or she would have no employer from which records could be obtained, and therefore no authorization need be provided.

related filings from the relevant tax authorities for the five years preceding the subject accident to the present;

4. The defendants are entitled to obtain a plaintiff's bank statements for the period of one year preceding the subject accident to the present;

5. Upon request and at the plaintiffs' expense, the defendants shall provide the plaintiffs with copies of all documents they obtain under the authorizations.

Finally, if the defendants require the plaintiffs to go through the effort of executing authorizations, the magistrate judge expects that they promptly will serve the authorization forms on the appropriate third parties.

ENTERED this \_\_\_\_\_ day of July 2002.

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V. Sue Shields  
United States Magistrate Judge  
Southern District of Indiana

Copies to:

Mike Eidson  
Colson Hicks Eidson  
255 Aragon Avenue 2nd Floor  
Coral Gables, FL 33134-5008

PO Box 44961  
Indianapolis, IN 46244-0961

Mark Merkle  
Krieg Devault LLP  
One Indiana Square Suite 2800  
Indianapolis, IN 46204

William E Winingham  
Wilson Kehoe & Winingham  
2859 North Meridian Street  
P.O. Box 1317  
Indianapolis, IN 46206-1317

Randall Riggs  
Locke Reynolds LLP  
201 N Illinois St Suite 1000